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By: **Senator Britt**

Introduced and read first time: February 14, 2005

Assigned to: Rules

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A BILL ENTITLED

1 AN ACT concerning

2 **Basic Human Rights Act of 2005**

3 FOR the purpose of establishing domestic partnerships in the State for certain  
4 purposes; prohibiting an individual from claiming the benefits of a domestic  
5 partnership except under certain circumstances; establishing certain crimes and  
6 penalties; requiring individuals to sign a Certificate of Domestic Partnership  
7 before a notary public to enter into a domestic partnership; establishing certain  
8 qualifications for individuals entering into a domestic partnership; requiring the  
9 Secretary of Health and Mental Hygiene to adopt certain regulations; providing  
10 certain procedures for the termination of a domestic partnership; requiring a  
11 domestic partner that qualified for and claimed certain third party benefits to  
12 provide notice to the third party on the termination of a domestic partnership;  
13 establishing certain rights for certain third parties; requiring certain health  
14 care facilities to allow domestic partners and certain relatives of domestic  
15 partners to visit a domestic partner except under certain circumstances;  
16 requiring two adults to be treated as domestic partners in certain circumstances  
17 related to medical emergencies; providing for the scope of this Act; establishing  
18 that the entering into of a domestic partnership by two individuals who are also  
19 married to each other in another state may not be considered to be certain  
20 evidence, knowledge, awareness, or admission; prohibiting the Department of  
21 Health and Mental Hygiene from denying a domestic partner the right to  
22 inspect a record to permit a disinterment or reinterment of a body; authorizing  
23 a domestic partner to give consent to conduct a postmortem examination of a  
24 certain body; authorizing the domestic partner to arrange for the final  
25 disposition of the body of a decedent under certain circumstances; authorizing a  
26 domestic partner to make the health care decisions for certain persons;  
27 authorizing a domestic partner of a certain patient to petition a court to enjoin  
28 the actions of a certain treating health care provider; authorizing a domestic  
29 partner to accompany an individual being transported from one health care  
30 facility to another health care facility under certain circumstances; establishing  
31 that a domestic partner may be a representative of a deceased from whom a  
32 hospital is asking a human organ donation; prohibiting a hospital from billing a  
33 domestic partner for the costs associated with the deceased domestic partner's  
34 organ donation; requiring that domestic partners be given the opportunity to  
35 share a room in a certain facility under certain circumstances; requiring certain

1 related institutions to allow a resident who is a party to a domestic partnership  
2 to have privacy during a visit by the other domestic partner; authorizing the  
3 domestic partner to arrange the final disposition of the body of a decedent with  
4 a mortician under certain circumstances; establishing that, for purposes of an  
5 interest in the property of a burial site, a domestic partner is a person in  
6 interest; establishing that a domestic partner is a next of kin for purposes of  
7 making anatomical gifts of a decedent; defining certain terms; making the  
8 provisions of this Act severable; and generally relating to the Medical Decision  
9 Making Act of 2005.

10 BY adding to

11 Article - Health - General  
12 Section 6-101 through 6-501 to be under the new title "Title 6. Domestic  
13 Partnerships"  
14 Annotated Code of Maryland  
15 (2000 Replacement Volume and 2004 Supplement)

16 BY repealing and reenacting, with amendments,

17 Article - Health - General  
18 Section 1-101, 4-215(e), 5-501(b), 5-509(c), 5-605(a)(2), 5-612, 10-807(e),  
19 19-310(d) and (g), and 19-344(h), (k), and (q)(1)  
20 Annotated Code of Maryland  
21 (2000 Replacement Volume and 2004 Supplement)

22 BY repealing and reenacting, without amendments,

23 Article - Health - General  
24 Section 4-215(a), 5-501(a), 5-509(a), 5-605(a)(1), 10-807(a), 19-310(a) and (j),  
25 19-343(a) and (b), and 19-344(a)  
26 Annotated Code of Maryland  
27 (2000 Replacement Volume and 2004 Supplement)

28 BY repealing and reenacting, without amendments,

29 Article - Health Occupations  
30 Section 7-410(a)  
31 Annotated Code of Maryland  
32 (2000 Replacement Volume and 2004 Supplement)

33 BY repealing and reenacting, with amendments,

34 Article - Health Occupations  
35 Section 7-410(c)  
36 Annotated Code of Maryland  
37 (2000 Replacement Volume and 2004 Supplement)

38 BY repealing and reenacting, with amendments,

39 Article - Real Property

1 Section 14-121(a)  
2 Annotated Code of Maryland  
3 (2003 Replacement Volume and 2004 Supplement)

4 BY repealing and reenacting, with amendments,  
5 Article - Estates and Trusts  
6 Section 4-501  
7 Annotated Code of Maryland  
8 (2001 Replacement Volume and 2004 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
10 MARYLAND, That the Laws of Maryland read as follows:

11 **Article - Health - General**

12 TITLE 6. DOMESTIC PARTNERSHIPS.

13 SUBTITLE 1. DEFINITIONS.

14 6-101.

15 (A) IN THIS TITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

16 (B) "CERTIFICATE OF DOMESTIC PARTNERSHIP" MEANS A CERTIFICATE  
17 ESTABLISHING A DOMESTIC PARTNERSHIP AND AUTHORIZING THE DOMESTIC  
18 PARTNERS TO CLAIM THE BENEFITS OF A DOMESTIC PARTNERSHIP.

19 (C) (1) "COMMON RESIDENCE" MEANS THE SHARED PLACE WHERE BOTH  
20 DOMESTIC PARTNERS LIVE.

21 (2) "COMMON RESIDENCE" INCLUDES THE SHORT-TERM OR  
22 LONG-TERM TEMPORARY LEAVING OF THE COMMON RESIDENCE BY ONE DOMESTIC  
23 PARTNER WITH THE INTENT TO RETURN TO THE COMMON RESIDENCE.

24 (3) "COMMON RESIDENCE" DOES NOT MEAN THAT:

25 (I) BOTH DOMESTIC PARTNERS ARE REQUIRED TO HAVE THE  
26 RIGHT TO LEGAL POSSESSION OF THE COMMON RESIDENCE; OR

27 (II) A DOMESTIC PARTNER MAY NOT HAVE AN ADDITIONAL  
28 RESIDENCE.

29 (D) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WHO HAS SIGNED A  
30 CERTIFICATE OF DOMESTIC PARTNERSHIP WITH AN ELIGIBLE INDIVIDUAL.

31 (E) (1) "MUTUAL INTERDEPENDENCE" MEANS THAT EACH DOMESTIC  
32 PARTNER IN A RELATIONSHIP CONTRIBUTES TO THE MAINTENANCE AND SUPPORT  
33 OF THE OTHER DOMESTIC PARTNER AND THE RELATIONSHIP.

1 (2) "MUTUAL INTERDEPENDENCE" DOES NOT MEAN THAT THE  
2 DOMESTIC PARTNERS ARE REQUIRED TO CONTRIBUTE EQUALLY TO THE  
3 RELATIONSHIP.

4 (F) "NOTICE" MEANS NOTICE OF THE TERMINATION OF A DOMESTIC  
5 PARTNERSHIP.

6 SUBTITLE 2. GENERAL PROVISIONS AND ESTABLISHMENT OF DOMESTIC  
7 PARTNERSHIPS.

8 6-201.

9 (A) A DOMESTIC PARTNERSHIP IS NOT ESTABLISHED AND AN INDIVIDUAL  
10 MAY NOT CLAIM THE BENEFITS OF A DOMESTIC PARTNERSHIP UNLESS THE  
11 CERTIFICATE OF DOMESTIC PARTNERSHIP IS COMPLETED AS PROVIDED IN THIS  
12 SUBTITLE.

13 (B) AN INDIVIDUAL WHO VIOLATES THIS SECTION IS GUILTY OF A  
14 MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE OF \$100.

15 6-202.

16 (A) TO QUALIFY FOR A CERTIFICATE OF DOMESTIC PARTNERSHIP, EACH  
17 INDIVIDUAL SHALL MEET THE REQUIREMENTS OF THIS SECTION.

18 (B) EACH INDIVIDUAL QUALIFIES UNDER THIS SECTION IF:

19 (1) EACH INDIVIDUAL IS AT LEAST 18 YEARS OLD;

20 (2) THE INDIVIDUALS ARE NOT RELATED TO EACH OTHER BY BLOOD OR  
21 MARRIAGE WITHIN FOUR DEGREES OF CONSANGUINITY UNDER THE CIVIL LAW  
22 RULE;

23 (3) (I) THE INDIVIDUALS ARE OF THE SAME SEX; OR

24 (II) THE INDIVIDUALS ARE OF THE OPPOSITE SEX AND EACH  
25 INDIVIDUAL IS AT LEAST 62 YEARS OLD;

26 (4) NEITHER INDIVIDUAL IS MARRIED OR IS A MEMBER OF A CIVIL  
27 UNION OR DOMESTIC PARTNERSHIP;

28 (5) THE INDIVIDUALS AGREE TO BE IN A RELATIONSHIP OF MUTUAL  
29 INTERDEPENDENCE;

30 (6) THE INDIVIDUALS SHARE A COMMON RESIDENCE; AND

31 (7) THE INDIVIDUALS AGREE TO SIGN THE CERTIFICATE OF DOMESTIC  
32 PARTNERSHIP BEFORE A NOTARY PUBLIC.

1 6-203.

2 (A) TO ESTABLISH A DOMESTIC PARTNERSHIP, BOTH PARTIES ENTERING INTO  
3 A DOMESTIC PARTNERSHIP SHALL:

4 (1) APPEAR BEFORE THE NOTARY PUBLIC AND GIVE, UNDER OATH, THE  
5 FOLLOWING INFORMATION, WHICH SHALL BE PLACED ON THE CERTIFICATE OF  
6 DOMESTIC PARTNERSHIP:

7 (I) THE NAME OF EACH INDIVIDUAL;

8 (II) THE PLACE OF COMMON RESIDENCE OF THE INDIVIDUALS;

9 (III) AN AFFIRMATION THAT EACH INDIVIDUAL IS AT LEAST 18  
10 YEARS OLD;

11 (IV) AN AFFIRMATION THAT THE INDIVIDUALS ARE NOT RELATED  
12 BY BLOOD OR MARRIAGE, HOWEVER, IF RELATED BY BLOOD, THE DEGREE OF  
13 RELATIONSHIP;

14 (V) AN AFFIRMATION THAT EACH INDIVIDUAL IS EITHER OF THE  
15 SAME SEX OR AT LEAST 62 YEARS OLD;

16 (VI) AN AFFIRMATION THAT NEITHER INDIVIDUAL IS MARRIED OR A  
17 MEMBER OF A CIVIL UNION OR DOMESTIC PARTNERSHIP; AND

18 (VII) AN AFFIRMATION THAT THE INDIVIDUALS AGREE TO A  
19 RELATIONSHIP OF MUTUAL INTERDEPENDENCE; AND

20 (2) SIGN THE CERTIFICATE OF DOMESTIC PARTNERSHIP.

21 (B) A CERTIFICATE OF DOMESTIC PARTNERSHIP SHALL CONTAIN:

22 (1) A STATEMENT AS FOLLOWS:

23 "I HEREBY CERTIFY THAT ON THIS ..... DAY OF ..... (STATE HERE  
24 MONTH AND YEAR), AT ..... (STATE HERE TIME), AT ..... (STATE HERE  
25 LOCATION), IN ACCORDANCE WITH THE LAWS OF THE STATE OF MARYLAND, THE  
26 FOLLOWING INDIVIDUALS HAVE ENTERED INTO A DOMESTIC PARTNERSHIP:

27 .....

28 (STATE HERE NAME OF PARTY)

29 .....

30 (STATE HERE NAME OF OTHER PARTY)"; AND

31 (2) A SPACE FOR THE SIGNATURE OF THE NOTARY PUBLIC.

32 (C) THE SECRETARY SHALL ADOPT REGULATIONS REGARDING:

1 (1) THE DESIGN OF AN OFFICIAL CERTIFICATE OF DOMESTIC  
2 PARTNERSHIP;

3 (2) THE DESIGN OF AN OFFICIAL NOTICE OF TERMINATION OF A  
4 DOMESTIC PARTNERSHIP; AND

5 (3) THE PLACES WHERE THE OFFICIAL CERTIFICATES WILL BE  
6 DISTRIBUTED.

7 6-204.

8 (A) A DOMESTIC PARTNERSHIP SHALL TERMINATE:

9 (1) ON THE DEATH OF A DOMESTIC PARTNER; OR

10 (2) WHEN A NOTICE OF TERMINATION OF DOMESTIC PARTNERSHIP HAS  
11 BEEN SIGNED BY THE PARTIES TO A DOMESTIC PARTNERSHIP BEFORE A NOTARY  
12 PUBLIC.

13 (B) (1) THIS SECTION APPLIES TO A DOMESTIC PARTNER WHO HAS GIVEN A  
14 COPY OF A CERTIFICATE OF DOMESTIC PARTNERSHIP TO A THIRD PARTY TO  
15 QUALIFY FOR OR CLAIM ANY BENEFIT OR RIGHT OF A DOMESTIC PARTNER.

16 (2) ANY BENEFIT OR RIGHT OFFERED BY A THIRD PARTY THAT A  
17 DOMESTIC PARTNER CLAIMS AS A RESULT OF A DOMESTIC PARTNERSHIP, SHALL  
18 IMMEDIATELY TERMINATE ON THE TERMINATION OF A DOMESTIC PARTNERSHIP.

19 (3) ON THE TERMINATION OF A DOMESTIC PARTNERSHIP, A DOMESTIC  
20 PARTNER SHALL GIVE OR SEND TO THE THIRD PARTY, AT THE LAST KNOWN ADDRESS  
21 OF THE THIRD PARTY, WRITTEN NOTIFICATION THAT THE DOMESTIC PARTNERSHIP  
22 HAS BEEN TERMINATED.

23 (4) A THIRD PARTY WHO SUFFERS A LOSS AS A RESULT OF THE FAILURE  
24 OF A DOMESTIC PARTNER TO NOTIFY THE THIRD PARTY OF THE TERMINATION OF A  
25 DOMESTIC PARTNERSHIP IS ENTITLED TO RECOVER ANY ACTUAL DAMAGES.

26 SUBTITLE 3. PENALTIES.

27 6-301.

28 (A) AN INDIVIDUAL MAY NOT KNOWINGLY MAKE ANY MATERIAL FALSE  
29 STATEMENT TO OBTAIN OR TO HELP ANOTHER INDIVIDUAL TO OBTAIN A  
30 CERTIFICATE OF DOMESTIC PARTNERSHIP IN VIOLATION OF THIS TITLE.

31 (B) AN INDIVIDUAL WHO VIOLATES THE PROVISIONS OF THIS SECTION IS  
32 GUILTY OF PERJURY AND ON CONVICTION IS SUBJECT TO THE PENALTY PROVIDED  
33 IN § 9-101 OF THE CRIMINAL LAW ARTICLE.

## SUBTITLE 4. MEDICAL EMERGENCIES.

1 6-401.

3 (A) HOSPITALS, RELATED INSTITUTIONS, AND RESIDENTIAL TREATMENT  
4 CENTERS, AS DEFINED IN § 19-301 OF THIS ARTICLE, SHALL ALLOW A PATIENT'S  
5 DOMESTIC PARTNER, THE CHILDREN OF THE PATIENT'S DOMESTIC PARTNER, AND  
6 THE DOMESTIC PARTNER OF THE PATIENT'S PARENT OR CHILD TO VISIT, UNLESS:

7 (1) NO VISITORS ARE ALLOWED;

8 (2) THE FACILITY REASONABLY DETERMINES THAT THE PRESENCE OF A  
9 PARTICULAR VISITOR WOULD ENDANGER THE HEALTH OR SAFETY OF A PATIENT OR  
10 MEMBER OF THE FACILITY STAFF; OR

11 (3) THE PATIENT TELLS THE FACILITY STAFF THAT THE PATIENT DOES  
12 NOT WANT A PARTICULAR PERSON TO VISIT.

13 (B) THIS SECTION DOES NOT PROHIBIT A HOSPITAL, RELATED INSTITUTION,  
14 OR RESIDENTIAL TREATMENT CENTER FROM ESTABLISHING REASONABLE  
15 RESTRICTIONS UPON VISITATION, INCLUDING RESTRICTIONS ON THE HOURS OF  
16 VISITATION AND NUMBER OF VISITORS.

17 6-402.

18 (A) THIS SECTION APPLIES TO TWO ADULTS WHO QUALIFY FOR A  
19 CERTIFICATE OF DOMESTIC PARTNERSHIP BUT HAVE NOT OBTAINED A CERTIFICATE  
20 OF DOMESTIC PARTNERSHIP.

21 (B) IN THE CASE OF A MEDICAL EMERGENCY, TWO ADULTS SHALL BE  
22 TREATED AS DOMESTIC PARTNERS IF ONE OF THE ADULTS TELLS, IN GOOD FAITH,  
23 THE EMERGENCY MEDICAL PROVIDER OR HOSPITAL PERSONNEL THAT THE ADULTS  
24 ARE IN A MUTUALLY INTERDEPENDENT RELATIONSHIP, FOR THE FOLLOWING  
25 PURPOSES ONLY:

26 (1) ALLOWING ONE ADULT TO ACCOMPANY THE ILL OR INJURED ADULT  
27 BEING TRANSPORTED TO A HOSPITAL IN AN EMERGENCY VEHICLE; AND

28 (2) VISITATION WITH THE ILL OR INJURED ADULT ADMITTED TO A  
29 HOSPITAL ON AN EMERGENCY BASIS ON THE SAME BASIS AS A MEMBER OF THE ILL  
30 OR INJURED ADULT'S IMMEDIATE FAMILY.

31 SUBTITLE 5. DOMESTIC PARTNER'S RIGHTS AND OBLIGATIONS.

32 6-501.

33 (A) THE RIGHTS AND OBLIGATIONS OF A DOMESTIC PARTNER AS A RESULT OF  
34 ENTERING INTO A DOMESTIC PARTNERSHIP ARE ONLY THOSE DESCRIBED IN THIS  
35 TITLE.

1 (B) THE ENTERING INTO OF A DOMESTIC PARTNERSHIP BY TWO INDIVIDUALS  
2 WHO ARE ALSO MARRIED TO EACH OTHER IN ANOTHER STATE MAY NOT BE  
3 CONSIDERED EVIDENCE, KNOWLEDGE, AWARENESS, OR AN ADMISSION THAT THE  
4 DOMESTIC PARTNERS ARE LAWFULLY MARRIED.

5 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland  
6 read as follows:

7 **Article - Health - General**

8 1-101.

9 (a) In this article the following words have the meanings indicated.

10 (b) "County" means a county of this State and, unless expressly provided  
11 otherwise, Baltimore City.

12 (c) "Department" means the Department of Health and Mental Hygiene.

13 (D) "DOMESTIC PARTNER" MEANS AN INDIVIDUAL WHO HAS COMPLETED A  
14 CERTIFICATE OF DOMESTIC PARTNERSHIP AS PROVIDED UNDER TITLE 6 OF THIS  
15 ARTICLE.

16 [(d)] (E) "Health officer" means, unless expressly provided otherwise, the  
17 Baltimore City Commissioner of Health or the health officer of a county.

18 [(e)] (F) "Includes" or "including" means includes or including by way of  
19 illustration and not by way of limitation.

20 [(f)] (G) "Local health planning agency" means the health department of a  
21 jurisdiction or a body designated by the local health department to perform health  
22 planning functions.

23 [(g)] (H) "Medical examiner" means:

24 (1) The Chief Medical Examiner;

25 (2) The Deputy Chief Medical Examiner;

26 (3) Any assistant medical examiner; or

27 (4) Any deputy medical examiner.

28 [(h)] (I) "Person" means an individual, receiver, trustee, guardian, personal  
29 representative, fiduciary, or representative of any kind and any partnership, firm,  
30 association, corporation, or other entity.

31 [(i)] (J) "Physician" means an individual who is authorized under the  
32 Maryland Medical Practice Act to practice medicine in this State.

33 [(j)] (K) "Secretary" means the Secretary of Health and Mental Hygiene.



1 [(k)] (L) "State" means:

2 (1) A state, possession, or territory of the United States;

3 (2) The District of Columbia; or

4 (3) The Commonwealth of Puerto Rico.

5 4-215.

6 (a) In this section, "cemetery" includes a crematory or other place for final  
7 disposition.

8 (e) (1) A permit for disinterment and reinterment is required before the  
9 disinterment of human remains if reinterment is not to be made in the same  
10 cemetery. The Secretary or a health officer shall issue the permit after receipt of an  
11 application on the form that the Secretary requires.

12 (2) If all human remains in a cemetery are to be disinterred for purposes  
13 of relocation or abandonment of the cemetery, one application is sufficient for that  
14 purpose.

15 (3) The Department shall keep a record of each permit issued for the  
16 disinterment and reinterment of human remains.

17 (4) Except as provided in paragraph (5) of this subsection, the  
18 Department may not disclose or allow public inspection of information in a permit  
19 record about the location of the site of a disinterment or reinterment if a local burial  
20 sites advisory board or the Director of the Maryland Historical Trust determines that:

21 (i) The site is historic property, as defined in Article 83B, § 5-601  
22 of the Code; and

23 (ii) Disclosure would create a substantial risk of harm, theft, or  
24 destruction to the site.

25 (5) The Department may not deny inspection of a permit record to:

26 (i) The owner of the site of the disinterment or reinterment;

27 (ii) A governmental entity that has the power of eminent domain; or

28 (iii) The spouse, DOMESTIC PARTNER, next of kin, or appointed  
29 personal representative of the deceased whose human remains have been disinterred  
30 or reinterred.

31 5-501.

32 (a) Consent for a postmortem examination of a body by a physician is  
33 sufficient if the consent is given as provided in this section.

1 (b) (1) The consent may be given by any one of the following persons if that  
2 person, whether alone or with another, has assumed control of the body for its final  
3 disposition:

4 (i) A parent;

5 (ii) A spouse;

6 (III) A DOMESTIC PARTNER;

7 [(iii)] (IV) A child;

8 [(iv)] (V) A guardian;

9 [(v)] (VI) A next of kin; or

10 [(vi)] (VII) In the absence of these persons, any other person.

11 (2) If a person does not assume control of a body under paragraph (1) of  
12 this subsection, the consent may be given by the State Anatomy Board.

13 5-509.

14 (a) Any individual who is 18 years of age or older may decide the disposition of  
15 the individual's own body after that individual's death without the predeath or  
16 post-death consent of another person by executing a document that expresses the  
17 individual's wishes regarding disposition of the body or by entering into a pre-need  
18 contract.

19 (c) Unless a person has knowledge that contrary directions have been given by  
20 the decedent, if a decedent has not executed a document under subsection (a) of this  
21 section, the following persons, in the order of priority stated, have the right to arrange  
22 for the final disposition of the body of the decedent, including by cremation under §  
23 5-502 of this subtitle:

24 (1) The surviving spouse OR DOMESTIC PARTNER of the decedent;

25 (2) An adult child of the decedent;

26 (3) A parent of the decedent;

27 (4) An adult brother or sister of the decedent;

28 (5) A person acting as a representative of the decedent under a signed  
29 authorization of the decedent;

30 (6) The guardian of the person of the decedent at the time of the  
31 decedent's death, if one has been appointed; or

32 (7) In the absence of any person under paragraphs (1) through (6) of this  
33 subsection, any other person willing to assume the responsibility to act as the

1 authorizing agent for purposes of arranging the final disposition of the decedent's  
2 body, including the personal representative of the decedent's estate, after attesting in  
3 writing that a good faith effort has been made to no avail to contact the individuals  
4 under paragraphs (1) through (6) of this subsection.

5 5-605.

6 (a) (1) In this subsection, "unavailable" means:

7 (i) After reasonable inquiry, a health care provider is unaware of  
8 the existence of a surrogate decision maker;

9 (ii) After reasonable inquiry, a health care provider cannot  
10 ascertain the whereabouts of a surrogate decision maker;

11 (iii) A surrogate decision maker has not responded in a timely  
12 manner, taking into account the health care needs of the individual, to a written or  
13 oral message from a health care provider;

14 (iv) A surrogate decision maker is incapacitated; or

15 (v) A surrogate decision maker is unwilling to make decisions  
16 concerning health care for the individual.

17 (2) The following individuals or groups, in the specified order of priority,  
18 may make decisions about health care for a person who has been certified to be  
19 incapable of making an informed decision and who has not appointed a health care  
20 agent in accordance with this subtitle. Individuals in a particular class may be  
21 consulted to make a decision only if all individuals in the next higher class are  
22 unavailable:

23 (i) A guardian for the patient, if one has been appointed;

24 (ii) The patient's spouse OR DOMESTIC PARTNER;

25 (iii) An adult child of the patient;

26 (iv) A parent of the patient;

27 (v) An adult brother or sister of the patient; or

28 (vi) A friend or other relative of the patient who meets the  
29 requirements of paragraph (3) of this subsection.

30 5-612.

31 (a) (1) A health care provider for an individual incapable of making an  
32 informed decision who believes that an instruction to withhold or withdraw a  
33 life-sustaining procedure from the patient is inconsistent with generally accepted  
34 standards of patient care shall:

1 (i) Petition a patient care advisory committee for advice concerning  
2 the withholding or withdrawal of the life-sustaining procedure from the patient if the  
3 patient is in a hospital or related institution; or

4 (ii) File a petition in a court of competent jurisdiction seeking  
5 injunctive or other relief relating to the withholding or withdrawal of the  
6 life-sustaining procedure from the patient.

7 (2) In reviewing a petition filed under paragraph (1) of this subsection,  
8 the court shall follow the standards set forth in §§ 13-711 through 13-713 of the  
9 Estates and Trusts Article.

10 (b) On petition of the patient's spouse, DOMESTIC PARTNER, a parent, adult  
11 child, grandchild, brother, or sister of the patient, or a friend or other relative who has  
12 qualified as a surrogate under § 5-605 of this subtitle to a circuit court of the county  
13 or city in which the patient for whom treatment will be or is currently being provided,  
14 withheld, or withdrawn under this subtitle resides or is located, the court may enjoin  
15 that action upon finding by a preponderance of the evidence that the action is not  
16 lawfully authorized by this subtitle or by other State or federal law.

17 (c) Except for cases that the court considers of greater importance, a  
18 proceeding under this section, including an appeal, shall:

19 (1) Take precedence on the docket;

20 (2) Be heard at the earliest practicable date; and

21 (3) Be expedited in every way.

22 10-807.

23 (a) The Director may transfer an individual from a public facility to another  
24 public facility or, if a private facility agrees, to that private facility, if the Director  
25 finds that:

26 (1) The individual either can receive better care or treatment in or would  
27 be more likely to benefit from care or treatment at the other facility; or

28 (2) The safety or welfare of other individuals would be furthered.

29 (e) An individual may not be transported to or from any facility unless  
30 accompanied by:

31 (1) An ambulance attendant or other individual who is authorized by the  
32 facility and is of the same sex. However, the chief executive officer of the facility or  
33 that officer's designee may designate an ambulance attendant or other person of  
34 either sex to provide transportation to an individual, if deemed appropriate; or

35 (2) The parent, spouse, DOMESTIC PARTNER, adult sibling, or adult  
36 offspring of the individual.

1 19-310.

2 (a) In this section, "designated requestor" means a hospital employee who has  
3 completed a course offered by an organ, tissue, or eye recovery agency on how to  
4 approach potential donor families and request organ or tissue donation.

5 (d) (1) Except as provided in subsection (j) of this section, when an  
6 individual dies in a hospital in accordance with § 5-202 of this article, a  
7 representative of the appropriate organ, tissue, or eye recovery agency or a  
8 designated requestor shall request, with sensitivity, in the order of stated priority,  
9 that the individual's representative consent to the donation of all or any of the  
10 decedent's organs or tissues as an anatomical donation if suitable.

11 (2) For the purposes of paragraph (1) of this subsection, the  
12 representative of the deceased individual is 1 of the following individuals listed in the  
13 following order of priority:

14 (i) A spouse OR DOMESTIC PARTNER, but, if not alive or not  
15 competent, then;

16 (ii) A son or daughter who is at least 18 years old, but, if not alive,  
17 competent, or immediately available, then;

18 (iii) A parent, but, if not alive, competent, or immediately available,  
19 then;

20 (iv) A brother or sister who is at least 18 years old, but, if not alive  
21 or not competent, then;

22 (v) A guardian;

23 (vi) A friend or other relative of the decedent, if the individual:

24 1. Is a competent individual; and

25 2. Presents an affidavit to the attending physician stating:

26 A. That the individual is a relative or close friend of the  
27 decedent; and

28 B. Specific facts and circumstances demonstrating that the  
29 individual maintained regular contact with the decedent sufficient to be familiar with  
30 the decedent's activities, health, and personal beliefs; or

31 (vii) Any other person authorized or required to dispose of the body.

32 (3) (i) This subsection does not apply if the decedent has given  
33 contrary directions.

34 (ii) The failure of the decedent to make a gift is not a contrary  
35 direction for purposes of this subsection.

1 (4) Contrary directions given by the decedent under this subsection shall  
2 be recorded in the decedent's medical record.

3 (5) The representative of the appropriate organ, tissue, or eye recovery  
4 agency or the designated requestor and the representative of the deceased patient are  
5 entitled to protection from civil and criminal liability as provided in § 4-508(b) of the  
6 Estates and Trusts Article.

7 (g) A hospital may not bill the estate of the decedent, a surviving spouse OR  
8 DOMESTIC PARTNER of the decedent, any heirs of the decedent, or an insurer of the  
9 decedent for the costs associated with the removal of all or any of the decedent's  
10 organs or tissues for the purpose of an anatomical donation.

11 (j) The consent of the decedents representative is not necessary and the  
12 provisions of subsection (d) of this section do not apply if:

13 (1) The decedent's driver's license or identification card contains a  
14 notation that the decedent is an organ donor; or

15 (2) The decedent has consented to the gift of all or any part of the  
16 decedent's body in accordance with the provisions of:

17 (i) § 5-604.1 of this article; or

18 (ii) Title 4, Subtitle 5 of the Estates and Trusts Article.

19 19-343.

20 (a) In this section and §§ 19-344 and 19-345 of this subtitle, "facility" means  
21 a related institution that, under the rules and regulations of the Department, is a  
22 comprehensive care facility or an extended care facility.

23 (b) (1) The General Assembly intends to promote the interests and  
24 well-being of each resident of a facility.

25 (2) It is the policy of this State that, in addition to any other rights, each  
26 resident of a facility has the following basic rights:

27 (i) The right to be treated with consideration, respect, and full  
28 recognition of human dignity and individuality;

29 (ii) The right to receive treatment, care, and services that are  
30 adequate, appropriate, and in compliance with relevant State and federal laws, rules,  
31 and regulations;

32 (iii) The right to privacy;

33 (iv) The right to be free from mental and physical abuse;

34 (v) The right to expect and receive appropriate assessment,  
35 management, and treatment of pain as an integral component of the patient's care;

1 (vi) The right to be free from physical and chemical restraints,  
2 except for restraints that a physician authorizes for a clearly indicated medical need;

3 (vii) The right to receive respect and privacy in a medical care  
4 program; and

5 (viii) The right to manage personal financial affairs.

6 19-344.

7 (a) To carry out the policy set forth in § 19-343 of this subtitle, the following  
8 procedures are required for all services provided to a resident of a facility.

9 (h) If it is feasible to do so and not medically contraindicated, spouses OR  
10 DOMESTIC PARTNERS who are both residents of the facility shall be given the  
11 opportunity to share a room.

12 (k) (1) Each married resident of a facility shall have privacy during a visit  
13 by the spouse.

14 (2) EACH RESIDENT WHO IS PARTY TO A DOMESTIC PARTNERSHIP  
15 SHALL HAVE PRIVACY DURING A VISIT BY THE OTHER DOMESTIC PARTNER.

16 (q) (1) A resident of a facility or the next of kin, DOMESTIC PARTNER, or  
17 guardian of the person of a resident may file a complaint about an alleged violation of  
18 this section.

19

#### **Article - Health Occupations**

20 7-410.

21 (a) Any individual who is 18 years of age or older may decide the disposition of  
22 the individual's own body after the individual's death without the pre-death or  
23 post-death consent of another person by executing a document that expresses the  
24 individual's wishes or by entering into a pre-need contract.

25 (c) Unless a person has knowledge that contrary directions have been given by  
26 the decedent, if a decedent has not executed a document under subsection (a) of this  
27 section, the following persons, in the order of priority stated, have the right to arrange  
28 for the final disposition of the body of the decedent under this section and are liable  
29 for the reasonable costs of preparation, care, and disposition of the decedent:

30 (1) The surviving spouse OR DOMESTIC PARTNER, AS DEFINED IN § 6-101  
31 OF THE HEALTH - GENERAL ARTICLE, of the decedent;

32 (2) An adult child of the decedent;

33 (3) A parent of the decedent;

34 (4) An adult brother or sister of the decedent;

1 (5) A person acting as a representative of the decedent under a signed  
2 authorization of the decedent;

3 (6) The guardian of the person of the decedent at the time of the  
4 decedent's death, if a guardian has been appointed; or

5 (7) In the absence of any person under paragraphs (1) through (6) of this  
6 subsection, any other person willing to assume the responsibility to act as the  
7 authorizing agent for purposes of arranging the final disposition of the decedent's  
8 body, including the personal representative of the decedent's estate, after attesting in  
9 writing that a good faith effort has been made to no avail to contact the persons  
10 described in paragraphs (1) through (6) of this subsection.

11 **Article - Real Property**

12 14-121.

13 (a) (1) In this section the following words have the meanings indicated.

14 (2) (i) "Burial site" means any natural or prepared physical location,  
15 whether originally located below, on, or above the surface of the earth into which  
16 human remains or associated funerary objects are deposited as a part of a death rite  
17 or ceremony of any culture, religion, or group.

18 (ii) "Burial site" includes the human remains and associated  
19 funerary objects that result from a shipwreck or accident and are intentionally left to  
20 remain at the site.

21 (3) "Cultural affiliation" means a relationship of shared group identity  
22 that can be reasonably traced historically between a present-day group, tribe, band,  
23 or clan and an identifiable earlier group.

24 (4) "Person in interest" means a person who:

25 (i) Is related by blood or marriage to the person interred in a burial  
26 site;

27 (II) IS A DOMESTIC PARTNER, AS DEFINED IN § 6-101 OF THE  
28 HEALTH - GENERAL ARTICLE, OF A PERSON INTERRED IN A BURIAL SITE;

29 [(ii)] (III) Has a cultural affiliation with the person interred in a  
30 burial site; or

31 [(iii)] (IV) Has an interest in a burial site that the Office of the  
32 State's Attorney for the county where the burial site is located recognizes is in the  
33 public interest after consultation with a local burial sites advisory board or, if such a  
34 board does not exist, the Maryland Historical Trust.



1

**Article - Estates and Trusts**

2 4-501.

3 (a) In this subtitle the following words have the meanings indicated.

4 (b) "Body" or "part of body" includes organs, tissues, bones, blood, and other  
5 body fluids.6 (c) "Licensed hospital" includes any hospital licensed by the State Department  
7 of Health and Mental Hygiene under the laws of the State, and any hospital operated  
8 by the United States government, although not required to be licensed under the laws  
9 of the State.10 (d) "Next of kin" includes spouse AND DOMESTIC PARTNER, AS DEFINED IN §  
11 6-101 OF THE HEALTH - GENERAL ARTICLE.12 (e) "Person" means any individual, corporation, government or governmental  
13 agency or subdivision, estate, trust, partnership or association, or any other legal  
14 entity.15 (f) "Physician" or "surgeon" means any physician or surgeon licensed to  
16 practice under the laws of the State.17 SECTION 3. AND BE IT FURTHER ENACTED, That if any provision of this  
18 Act or the application thereof to any person or circumstance is held invalid for any  
19 reason in a court of competent jurisdiction, the invalidity does not affect other  
20 provisions or any other application of this Act which can be given effect without the  
21 invalid provision or application, and for this purpose the provisions of this Act are  
22 declared severable.23 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect  
24 July 1, 2005.